

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MOLLY SOSTAND AND RAYMOND  
SOSTAND, INDIVIDUALLY AND AS THE  
REPRESENTATIVES OF THE ESTATE  
OF CHRISTOPHER GEORGE SOSTAND,  
DECEASED

VS.

KANSAS CITY SOUTHERN RAILWAY  
COMPANY

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CIVIL ACTION NO. 4:07-cv-03858

**DEFENDANT KANSAS CITY SOUTHERN  
RAILWAY COMPANY'S RULE 26 DISCLOSURES**

TO: Plaintiffs, Molly Sostand and Raymond Sostand, Individually and as the  
Representatives of the Estate of Christopher George Sostand, Deceased, by and  
through their attorney, Michael C. Howard, 402 East 11th Street, Houston, TX  
77008

COMES NOW, Defendant, KANSAS CITY SOUTHERN RAILWAY COMPANY, by  
and through its attorney of record, and pursuant to the Federal Rules of Civil Procedure,  
makes the following Initial Disclosures attached hereto.

Respectfully submitted,

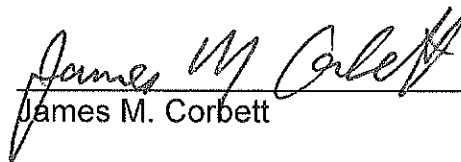


James M. Corbett  
Federal I.D. No. 15217  
State Bar No. 00783875  
BARKER LYMAN, P.C.  
1221 McKinney, Suite 3600  
Houston, Texas 77010  
Phone: 713-759-1990  
Fax: 713-652-2419

*Attorney for Defendant Kansas City  
Southern Railway Company*

Certificate of Service

I hereby certify that a true and correct copy of the foregoing instrument was served upon the parties listed below by facsimile, certified mail, return receipt requested, first class U.S. mail, electronic mail by the clerk of the court, and/or by messenger on the 15<sup>th</sup> day of October, 2008.

  
James M. Corbett

Michael C. Howard  
Attorney at Law  
402 East 11th Street  
Houston, TX 77008

Annette S. Kenefick  
David E. Brothers  
Bean, Bean & Brothers, L.L.P.  
Two Memorial City Plaza  
820 Gessner, Ste. 1500  
Houston, TX 77024

**RULE 26(a)(1) INITIAL DISCLOSURES**

- (A) The name and, if known, the address and telephone number of each individual likely to have discoverable information — along with the subjects of that information — that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment

The following witnesses are the Plaintiffs and natural parents of Christopher George Sostand and are expected to testify about their damage allegations, about Christopher Sostand, and their relationship with him:

Raymond Sostand - Plaintiff  
2145 Corley  
Beaumont, Texas 77701  
409-832-2718  
c/o his attorney Michael C. Howard  
402 East 11th  
Houston, Texas 77008  
713-868-1919 (phone)  
713-868-1899 (fax)

Molly Sostand - Plaintiff  
2145 Corley  
Beaumont, Texas 77701  
409-832-2718  
c/o her attorney Michael C. Howard  
402 East 11th  
Houston, Texas 77008  
713-868-1919 (phone)  
713-868-1899 (fax)

The following are persons who were either employees of one of the Defendants or employees of Brown's Machine Works and may have knowledge of the underlying incident, Plaintiffs' liability allegations, causation, and other liability issues:

Lewis E. Cunningham - Flagger  
213 ½ W. Reed Street  
Moberly, MO 65270-1556  
816-590-4491; 660-998-1666  
Employee of Rail Pros, Inc.  
c/o RailPros, Inc.  
c/o Annette S. Kenefick  
David E. Brothers

Bean, Bean & Brothers, L.L.P.  
Two Memorial City Plaza  
820 Gessner, Ste. 1500  
Houston, TX 77024  
713-463-7500  
713-463-7779 (fax)

Emilio  
Address and phone number unknown

Craig J. Ferrier  
2519 South Cotswald  
Shreveport, Louisiana 71118  
318-393-9460

Mike Goodman  
33 Ashton Place  
Daqueen, Arkansas 71832  
870-642-8927

Chris Harvey  
Collin County Sheriff Office  
4300 Community Avenue  
McKinney, Texas 75071

Keith Wayne Hickman - machine operator  
P.O. Box 1532  
Beaumont, Texas 77703  
Employee of Brown Machine Company

Johnny Johnson, Vice President  
RailPros, Inc.  
25 Mauchly, Suite 329  
Irvine, California 92618  
714-734-8765

John Lewis  
409-767-3985

Phillip McQueary - Engineer  
Archie Cohen - Conductor  
Russell Hatcher - Roadmaster  
Reginald Burks - Maintenance Way  
Craig J. Ferrier  
Jason Smith

c/o Kansas City Southern Railway Company  
c/o James M. Corbett  
Barker Lyman, P.C.  
1221 McKinney, Suite 3600  
Houston, Texas 77010  
713-759-1990  
713-652-2419 (fax)

William E. Haynie  
Charles Edwards Pickens  
Tyrus Heath Wells  
Earnest Zeno  
Keith Hickman  
Craig Anderson  
James Flowers  
James Mineo  
Greg Adams  
c/o Brown's Machine Works & Construction Company, Inc.  
1399 N. Main Street  
Liberty, Texas 77575  
936-336-9375

James Mineo - machine operator  
715 Range Road  
Palestine, Texas  
903-217-6713  
Employee of Brown Machine Company

Charles Edward Pickens, III - machine operator  
3995 Cedars Youngstown  
Beaumont, Texas 77703  
409-682-3855  
Employee of Brow Machine Company

Jason Smith - machine operator  
13020 Highway One  
Oil City, Louisiana 71061  
318-995-0455  
Employee of Kansas City Southern Railway

Tyrus Health Wells - machine operator  
2475 Avenue I  
Beaumont, Texas 77702  
409-350-0372  
Employee of Brown Machine Company

Ernest Dwayne Zeno - machine operator  
2360 Hayes Lane  
Beaumont, Texas 77703  
Employee of Brown Machine Company

The following witnesses are healthcare providers to Christopher Sostand, as well as the medical examiner's office, and it is anticipated that they may testify regarding their care, treatment, and examination of Mr. Sostand:

Custodian of billing and medical records for  
PHI Air Medical  
P.O. Box 60557  
Los Angeles, California 90060  
800-347-0881

Custodian of billing and medical records for  
Parkland Health & Hospital System  
P.O. Box 660599  
Dallas, Texas 75266-0599  
214-590-4900

Custodian of billing and medical records for  
Community Funeral Chapels, Inc.  
624 Irma Avenue  
Beaumont, Texas  
409-838-6597

Custodian of billing records for  
UT Southwestern  
P.O. Box 845347  
Dallas, Texas 75284-5347  
214-645-0600

Custodian of business records for  
Verizon Wireless

Custodian of business records for  
Texas Mutual Insurance Company  
P.O. Box 12029  
Austin, Texas 78711-2029  
800-252-7031

Joni L. McClain, M.D.  
Deputy Chief Medical Examiner  
Dallas County Institute of Forensic Sciences  
5300 Medical Center Drive  
Dallas, Texas 75235

Chris Heartsill, BS FTS-ABFT  
Southwestern Institute of Forensic Sciences  
5230 Medical Center Drive  
Dallas, Texas 75235-0728  
214-920-5966

Robert L. Barrett  
Josephine Volunteer Fire Department  
c/o Fire Chief Cameron Brooks  
214-475-1039

Jennifer Bersosa  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

S. Brackenridge, M.D.  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Brown, (brown63rp)  
PHI Air Medical  
P.O. Box 60557  
Los Angeles, California 90060  
800-347-0881

Ebony Brown  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Donaghe, (donaghe63jc)  
PHI Air Medical  
P.O. Box 60557  
Los Angeles, California 90060  
800-347-0881

Hillary Huff, RN  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Samuel Lubner, M.D.  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Julie McDaniel, RN  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Robison, (robison63sc)  
PHI Air Medical  
P.O. Box 60557  
Los Angeles, California 90060  
800-347-0881

Jeremy Spinks, M.D.  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000



Tran, M.D.  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Sarah S. Way  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

F. Williams, M.D.  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Michelle Witten, R.N.  
Parkland Memorial Hospital  
5201 Harry Hines Blvd.  
Dallas, Texas 75235  
Emergency Room  
214-590-8000

Catherine Ballow  
Custodian of billing and medical records for  
PHI Air Medical  
P.O. Box 60557  
Los Angeles, California 90060  
800-347-0881

Cameron Brooks  
Custodian of Medical Records for  
Josephine Fire Department  
214-475-1039

Bob Buchanan  
Custodian of billing records for UT Southwestern  
P.O. Box 845347  
Dallas, Texas 75284-5347  
214-645-0600

Custodian of billing and business records for  
Community Funeral Chapel, Inc.  
624 Irma Avenue  
Beaumont, Texas 409-838-6597

Custodian of business records for  
Cellco Partnership d/b/a Verizon Wireless  
180 Valley Road  
Bedminster, New Jersey 07921  
800-451-5242

Custodian of business records for  
Texas Mutual Insurance Company  
P.O. Box 12029  
Austin, Texas 78711-2029  
800-252-7031

Monica Head  
Custodian of medical records for  
Parkland Health & Hospital System  
P.O. Box 660599  
Dallas, Texas 75266-0599  
214-590-4900

Tracy Williams  
Custodian of billing records for  
Parkland Health & Hospital System  
P.O. Box 660599  
Dallas, Texas 75266-0599  
214-590-4900

- (B) A copy — or a description by category and location — of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

See documents previously produced by Defendant in response to Plaintiffs' Requests for Production.

- (C) A computation of each category of damages claimed by the disclosing party — who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

Defendant is not making a claim for damages.

- (D) For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

See the attached insurance policy.

- (E) Expert Testimony.

Experts will be disclosed in accordance with the Court's Scheduling Order.

# FIRST MERCURY INSURANCE COMPANY

(A STOCK COMPANY)

STATUTORY HOME OFFICE: ONE SOUTH WACKER DRIVE, SUITE 2740, CHICAGO, IL 60606

ADMINISTRATIVE OFFICE: 29621 NORTHWESTERN HWY., SOUTHFIELD, MI 48034

(OCCURRENCE POLICY)

## DECLARATION

### NAMED INSURED AND ADDRESS:

Brown's Machine Works & Construction Company, Inc.

POLICY NUMBER: FMTX001125

RENEWAL OF: FMTX000130

PO Box 9087

Liberty, TX 77575

POLICY PERIOD: 09/23/2005 TO 09/23/2006

12:01 A.M. STANDARD TIME AT THE ADDRESS  
OF THE NAMED INSURED AS STATED HEREIN.

AUDIT PERIOD: Annual Audit

THE NAMED INSURED IS: Corporation

BUSINESS DESCRIPTION: See Schedule Attached 'CVX-DEC-EX'

### LIMITS OF LIABILITY: COVERAGE IS PROVIDED ONLY IF A LIMIT IS SHOWN BELOW:

General Aggregate Limit	\$2,000,000
Products-Completed Operations Aggregate Limit	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Fire Damage Limit	\$50,000
Medical Payments Limit	\$5,000

### FORMS & ENDORSEMENTS ATTACHED TO THIS POLICY AT TIME OF ISSUE:

See Attached Extension of Declarations, Form # CVX-DEC-EX

### TOTAL ADVANCE PREMIUM

\$ 23,800.00

See CVX-GL-0800 Attached

300.00 Processing Fee

1,168.85 Texas State Tax

24.10 Stamping Fee

**SUBJECT TO AUDIT PREMIUM  
ADJUSTMENT**

*This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as a surplus line coverage pursuant to the Texas Insurance statutes. The State Board of Insurance does not audit the finances or review the solvency of the surplus lines insurer providing this coverage, and this insurer is not a member of the property and casualty insurance guaranty association created under Article 21.28-C, Insurance Code. Article 1.14-2, Insurance Code, requires payment of 4.85 percent tax on gross premium.*

**IMPORTANT!** Please carefully examine your policy as it may contain significant coverage modifications or exclusions. If this policy is a renewal, it may not contain the same precise terms and conditions as the prior policy

**NOTICE: IN ORDER TO PRESERVE YOUR RIGHTS UNDER THIS POLICY ALL CLAIMS MUST BE REPORTED IMMEDIATELY TO:**

Cover X Corporation

P.O. Box 5096

Southfield, MI 48086

Phone: 248-358-4010

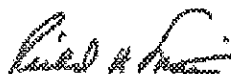
Fax: 248-357-5036

**THE INSURANCE COMPANY IN WHICH THIS COVERAGE IS PLACED IS AUTHORIZED TO TRANSACT BUSINESS IN THE STATE WHERE THE PROPERTY AND/OR ASSURED IS LOCATED BUT THE COMPANY IS NOT A LICENSED CARRIER IN THAT STATE. THIS POLICY AND THE PREMIUM THEREON MUST BE PROPERLY DECLARED AS A SURPLUS LINES RISK TO THE INSURANCE DEPARTMENT OF THE STATE. PROPER FILINGS MUST BE MADE AND SURPLUS LINES TAXES PAID BY A SURPLUS LINES BROKER IN THE STATES.**

DATE: 9/26/05

CVX-DEC-0030(7/98)

Countersigned By:



Authorized Representative

## EXTENSION OF DECLARATIONS

Policy No.: FMTX001125

### LOCATION OF PREMISES

Location of All Premises You Own, Rent or Occupy:

1 1399 N. Main , LIBERTY, TX 77575

<b>PREMIUM</b>	<b>EXPOSURE AMOUNT</b>		<b>ADVANCE</b>
<u>CLASSIFICATION</u>	<u>PREMIUM BASIS</u>	<u>RATE</u>	<u>PREMIUM</u>
1 98601-Railroad Construction	1,400,000	17.0000	\$23,800.00
	Per \$1,000 of Receipts	Subject to a minimum premium of \$23,800.00	

2 99999-Additional Insured	Included	Incl	Included
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3 99996b-Blanket Waiver Endorsement	Included	Incl	Included
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EXTENSION OF DECLARATIONS TOTAL ADVANCE PREMIUM: \$23,800.00

See CVX-GL-0800 Attached

**FORMS & ENDORSEMENTS ATTACHED TO THIS POLICY AT TIME OF ISSUE:**

CG 00 01 (07/98) - COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
CG 00 57 (09/98) - AMENDMENT OF INSURING AGREEMENT - KNOWN INJURY OR DAMAGE  
CG 21 54 (01/96) - EXCLUSION - DESIGNATED OPS COVERED BY CONSOLID. WRAP-UP  
CG 24 17 (10/01) - CONTRACTUAL LIABILITY - RAILROADS  
CG 25 03 (11/85) - AMENDMENT - AGGREGATE LIMITS OF INSURANCE (PER PROJECT)  
CL 701 (10/93) - EMPLOYMENT-RELATED PRACTICES EXCLUSION  
CVX-GL-0301 (04/91) - DEDUCTIBLE LIABILITY INSURANCE  
CVX-GL-0800 (11/96) - AMENDMENT OF PREMIUM ENDORSEMENT  
CVX-GL-1001A (09/02) - EXCLUSION - MOLD, FUNGI OR BACTERIA  
CVX-GL-1002 (09/02) - TERRORISM EXCLUSION  
CVX-GL-5000 (07/2000) - DESIGNATED WORK EXCL - EXT INSUL & FINISH SYSTEMS  
CVX-GL-5001 (07/2000) - CLAIMS NOTIFICATION  
CVX-GL-5002 (07/2000) - AIRCRAFT PRODUCTS AND GROUNDING EXCLUSION  
CVX-GL-5018 (07/2000) - LEAD EXCLUSION ENDORSEMENT  
CVX-GL-5046 (07/2000) - PROFESSIONAL SERVICES EXCLUSION ENDORSEMENT  
CVX-GL-5054 (08/04) - EXCLUSION - ASBESTOS, SILICA DUST, TOXIC SUBSTANCES  
CVX-GL-5066 (05/04) - CONTINUOUS OR PROGRESSIVE INJURY AND DAMAGE EXCLUSION  
CVX-GL-5067 (09/04) - BASIS OF PREMIUM ENDORSEMENT  
CVX-GL-5068 (12/04) - EXCL-INDEPENDENT CONTRACTORS EMPLOYEES/LEASED WORKERS  
FMIC-LEGAL (7/96) - SERVICE OF SUIT  
GU 207 (6/78) - ENDORSEMENT  
GU 267 (11/85) - COMMON POLICY CONDITIONS  
GU 481 (11/94) - NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (BROAD FORM)  
  
CG 20 10 (07/04) - ADDITIONAL INSURED-OWNERS, LESSEES OR CONTRACTORS  
CG 24 04 (10/93) - WAIVER OF TRANS OF RIGHTS OF RECOVERY AGAINST OTHERS TO US





**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

CG 21 47 10 93

**EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

- A.** The following exclusion is added to paragraph 2., Exclusions of COVERAGE A—BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section I—Coverages):

This insurance does not apply to:

“Bodily injury” to:

- (1)** A person arising out of any:
  - (a)** Refusal to employ that person;
  - (b)** Termination of that person’s employment; or
  - (c)** Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2)** The spouse, child, parent, brother or sister of that person as a consequence of “bodily injury” to that person at whom any of the employment-related practices described in paragraphs **(a)**, **(b)** or **(c)** above is directed.

This exclusion applies:

- (1)** Whether the insured may be liable as an employer or in any other capacity; and
- (2)** To any obligation to share damages with or repay someone else who must pay damages because of the injury.

- B.** The following exclusion is added to paragraph 2., Exclusions of COVERAGE B—PERSONAL AND ADVERTISING INJURY LIABILITY (Section I—Coverages):

This insurance does not apply to:

“Personal injury” to:

- (1)** A person arising out of any:
  - (a)** Refusal to employ that person;
  - (b)** Termination of that person’s employment; or
  - (c)** Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2)** The spouse, child, parent, brother or sister of that person as a consequence of “personal injury” to that person at whom any of the employment-related practices described in paragraphs **(a)**, **(b)** or **(c)** above is directed.

This exclusion applies:

- (1)** Whether the insured may be liable as an employer or in any other capacity; and
- (2)** To any obligation to share damages with or repay someone else who must pay damages because of the injury.

## **SERVICE OF SUIT**

The Company agrees that in the event of its failure to pay any amount claimed to be due hereunder, the Company, at the request of the Insured, will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such Court jurisdiction, and all matters arising hereunder shall be determined in accordance with the law and practice of such Court.

The Company hereby designates the Commissioner, Director or Superintendent of Insurance, or other officer specified by law for that purpose, or his successor or successors in office, or the person designated below, in the space indicated, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured arising out of this contract of insurance. It is further agreed that the Company shall abide by the final decision of any court having jurisdiction in which such action is filed, or by the decision of any appellate court in the event of an appeal.

Upon receipt of process served hereunder, the Company hereby designates Marcia M. Paulsen, Vice President; 29621 Northwestern Hwy.; Southfield, Michigan 48034 as the person to whom the officer designated above is authorized to mail such process.

In the alternative, process may be served upon the authorized agent of the Company whose name and address are:

COVERX  
29621 NORTHWESTERN HWY.  
SOUTHFIELD, MICHIGAN 48034

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time

during the policy period and up to three years afterward.

### D. INSPECTIONS AND SURVEYS

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

### E. PREMIUMS

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

### F. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Your rights and duties under this policy may not be transferred without our written consent except in the cause of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

**IMPORTANT NOTICE**

1. To obtain information or make a complaint:
2. You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

**1-800-252-3439**

3. You may write the Texas Department of Insurance:

**P.O. Box 149104  
Austin, TX 78714-9104  
FAX: (512) 475-1771**

4. **PREMIUM OR CLAIM DISPUTES:**

Should you have a dispute concerning your premium or about a claim you should contact your agent or CoverX first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

5. **ATTACH THIS NOTICE TO YOUR POLICY:**

This notice is for information only and does not become a part or condition of the attached document.

**AVISO IMPORTANTE**

Para obtener informacion o para someter una queja:

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companies, coberturas, derechos o que jasal:

**1-800-252-3429**

Puede escribir al Departamento de Seguros de Texas:

**P.O. Box 149104  
Austin, TX 78714-9104  
FAX: (512) 475-1771**

**DISPUTAS SOBRE PRIMAS O RECLAMOS:**

Si tiene una disputa concerniene a su prima o a reclamo, debe comunicarse con el agente primero. Si no se resuelve la disputa, puede entoces comunicarse con el Departamento de Seguros de Texas.

**UNA ESTE AVISO A SU POLIZA:**

Este aviso es solo para proposito de Informacion y no se convierte en parte O condicion del documento adjunto.

## COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

### SECTION I – COVERAGES

#### COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
- (2) The "bodily injury" or "property damage" occurs during the policy period.

- c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

##### 2. Exclusions

This insurance does not apply to:

###### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

###### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily Injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily Injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily Injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

#### **g. Aircraft, Auto Or Watercraft**

"Bodily Injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 26 feet long; and

(b) Not being used to carry persons or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

#### **h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

#### **i. War**

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

#### **j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a side-track agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

#### **k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

#### **l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a sub-contractor.

#### **m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

#### **n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

#### **o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.



## **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

### **1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance ; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

### **2. Exclusions**

This insurance does not apply to:

- a. "Personal and advertising injury":

- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury";
- (2) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (3) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
- (4) Arising out of a criminal act committed by or at the direction of any insured;
- (5) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;

- (6) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";

- (7) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

- (8) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";

- (9) Committed by an insured whose business is advertising, broadcasting, publishing or telecasting. However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions Section; or

- (10) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

- b. Any loss, cost or expense arising out of any:

- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

## **COVERAGE C MEDICAL PAYMENTS**

### **1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or

- (3) Because of your operations;
- provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 2. Exclusions

We will not pay expenses for "bodily injury":

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Coverage A.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

## SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.

e. All costs taxed against the insured in the "suit".

f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:

(1) Agrees in writing to:

- (a) Cooperate with us in the investigation, settlement or defense of the "suit";
- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

- (2) Provides us with written authorization to:
  - (a) Obtain records and other information related to the "suit"; and
  - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
2. Each of the following is also an insured:
  - a. Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" is an insured for:
    - (1) "Bodily injury" or "personal and advertising injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (1)(a) above;
      - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
      - (d) Arising out of his or her providing or failing to provide professional health care services.
    - (2) "Property damage" to property:
      - (a) Owned, occupied or used by,
      - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
  - b. Any person (other than your "employee"), or any organization while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.

- d. Your legal representative If you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
  - a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
  - b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
  - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
2. The General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage **C**;
  - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
  - c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage **A**; and
  - b. Medical expenses under Coverage **C** because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**

### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

### **3. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### **4. Other Insurance**

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

#### **a. Primary Insurance**

This Insurance is primary except when **b.** below applies. If this Insurance is primary, our obligations are not affected unless any of the other Insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

#### **b. Excess Insurance**

This insurance is excess over:

(1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (b) That is Fire Insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (c) That is Insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
- (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.

(2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

**6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V – DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters.
2. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

- b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or
  - c. All parts of the world if:
    - (1) The injury or damage arises out of:
      - (a) Goods or products made or sold by you in the territory described in a. above; or
      - (b) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; and
    - (2) The insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by:
- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
  - b. Your fulfilling the terms of the contract or agreement.
9. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
  - b. A sidetrack agreement;
  - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - e. An elevator maintenance agreement;
  - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. does not include that part of any contract or agreement:
- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
  - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
    - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
  - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
11. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - b. While it is in or on an aircraft, watercraft or "auto"; or

- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
  - (a) Snow removal;
  - (b) Road maintenance, but not construction or resurfacing; or
  - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
  - (1) Products that are still in your physical possession; or
  - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
    - (a) When all of the work called for in your contract has been completed.
    - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
    - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.



b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Your product" means:

- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (1) You;
- (2) Others trading under your name; or
- (3) A person or organization whose business or assets you have acquired; and

- b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- b. The providing of or failure to provide warnings or instructions.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

21. "Your work" means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- b. The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## PROFESSIONAL SERVICES EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

In consideration of the premium charged, it is agreed that this Amendatory Endorsement is attached to and becomes part of the policy and changes the policy as follows:

The following exclusion is added to paragraph 2. Exclusions of SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

This insurance does not apply to any "bodily injury" or "property damage" arising out of:

- (1) the rendering or failure to render professional services by any Insured; or
- (2) any act, error, omission, defect or deficiency in any test performed, or any evaluation, consultation, opinion, advice, designs, maps, surveys, reports, specifications given by or on behalf of any Insured; or
- (3) the reporting of or reliance upon any such test performed, or any evaluation, consultation, opinion, advice, designs, maps, surveys, reports, specifications given by or on behalf of any Insured.

Furthermore, the Company shall have no obligation or duty to defend any Insured for any such "suits."

As used herein, professional services shall include, but not be limited to, services provided by the following professions: inspectors, appraisers, surveyors, architects, engineers, consultants, construction managers, pharmacists, doctors, nurses, therapists, optometrists, dentists, all other licensed healthcare providers, hospitals, nursing homes, extended care facilities, blood banks, laboratories, lawyers, accountants, health or exercise clubs, agents and brokers, banks, fiduciaries, planners, computer and computer software design, and electronic data processing or transmission.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

CVX-GL-5046(07/2000)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **AMENDMENT OF INSURING AGREEMENT – KNOWN INJURY OR DAMAGE**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART (OCCURRENCE VERSION)**

Paragraph 1. **Insuring Agreement of Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

#### **1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
  - (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no Insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed Insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any Insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any Insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
  - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

## EXCLUSION – MOLD, FUNGI OR BACTERIA

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
MEDICAL OR X-RAY LABORATORIES PROFESSIONAL LIABILITY COVERAGE PART  
PUBLIC OFFICIALS LIABILITY COVERAGE PART  
LAW ENFORCEMENT LIABILITY COVERAGE PART

Notwithstanding anything to the contrary contained in the policy or any endorsement attached thereto, this insurance does not apply to and shall not respond to any claim, demand or "suit" alleging:

1. "Bodily Injury," "Property Damage" or "Personal and Advertising Injury" arising out of, in whole or in part, the actual, alleged or threatened discharge, inhalation, ingestion, dispersal, seepage, migration, release, escape or existence of any mold, mildew, bacteria or fungus, or any materials containing them, at any time.
2. Any loss, cost or expense arising out of any:
  - a. Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of any mold, mildew, bacteria or fungus, or any materials containing them; or
  - b. Claim, demand or "suit" by or on behalf of a governmental authority or any other person or organization for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of any mold, mildew, bacteria or fungus, or any materials containing them.

This exclusion applies to:

1. Our obligation to contribute to, share damages with, repay or indemnify someone else who must pay damages because of the "Bodily Injury," "Property Damage" or "Personal and Advertising Injury" or pay any loss, cost or expense noted in paragraphs 2a. and 2b., above.

It is the intent of this endorsement to exclude from this insurance any claim, demand or "suit" as described above. Therefore, there shall be no duty or obligation on the part of the Company under this insurance to respond to, investigate or defend anyone, including but not limited to any insured, its agents, servants or "employees" or any third parties for any such claim, demand or "suit."

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

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**NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY

COMMERCIAL AUTO COVERAGE PART

COMMERCIAL GENERAL LIABILITY COVERAGE PART

FARM COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

LIQUOR LIABILITY COVERAGE PART

POLLUTION LIABILITY COVERAGE PART

OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

RAILROAD PROTECTIVE LIABILITY COVERAGE PART

SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF TRANSPORTATION

UNDERGROUND STORAGE TANK POLICY

**1. The Insurance does not apply:**

**A. Under any Liability Coverage, to "bodily injury" or "property damage":**

**(1)** With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

**(2)** Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

**B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.**

**C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of "nuclear material," if:**

**(1)** The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;

**(2)** The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an "insured"; or

**(3)** The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility," but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion **(3)** applies only to "property damage" to such "nuclear facility" and any property thereat.

**2. As used in this endorsement:**

"Hazardous properties" include radioactive, toxic or explosive properties.

"Nuclear material" means "source material," "special nuclear material" or "by-product material."

"Source material," "special nuclear material," and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor."

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility."

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel," or (3) handling, processing or packaging "waste";

- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AIRCRAFT PRODUCTS AND GROUNDING EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

THE FOLLOWING EXCLUSION IS HEREBY ADDED TO SECTION 1 - COVERAGES, 2. EXCLUSIONS, OF THE POLICY:

- p. Any liability arising out of the sale and/or delivery at any time of aircraft products and/or completed operations and/or reliance upon any representation or warranty made with respect thereto, including any damages arising out of or related to the grounding of any aircraft.

Aircraft products and completed operations means (1) aircraft (including missiles or space craft and ground support or control equipment used therewith) and any other goods or products manufactured, sold, handled or distributed by any insured or any services provided or recommended by any insured or others trading under any insured's name for use in the manufacture, repair, operation, maintenance or use of any aircraft, and (2) any articles, furnished by any insured and installed in aircraft or used in connection with aircraft or for spare parts for aircraft, including but not limited to ground handling tools and equipment, training aids, instructions, manuals, blueprints, engineering or other data, engineering or other advice, and labor relating to such aircraft or articles.

Grounding means the withdrawal of one or more aircraft for the flight operations or the imposition of speed, passenger or load restrictions on such aircraft by reason of the existence of or alleged or suspected existence of any defect, fault or condition in such aircraft or any part thereof sold, handled or distributed by any insured or manufactured, assembled or processed by any other person or organization according to specifications, plans, suggestions, orders, or drawings of any insured or with tools, machinery or other equipment furnished to such persons or organizations by any insured, whether such aircraft so withdrawn are owned or operated by the same or different persons, organizations or corporations.

A grounding shall be deemed to commence on the date of an occurrence which discloses such condition, or on the date an aircraft is first withdrawn from service on an account of such condition, whichever comes first.

All other terms and conditions of this Policy remain unchanged.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

CVX-GL-5002(07/2000)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CLAIMS NOTIFICATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Send all claim notifications and information to:

CoverX Corporation  
P.O. Box 5096  
Southfield, Michigan 48086

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

## TERRORISM EXCLUSION

Notwithstanding anything to the contrary contained in the policy or any endorsement attached thereto, this insurance does not apply to:

"Bodily Injury," "Property Damage," "Advertising-Personal Injury," or "Errors or Omissions" caused directly by, or as a consequence of, "terrorism," including any action not otherwise excluded under the War and Military Action exclusion that is taken by a government or sovereign power (de jure or de facto) in controlling, preventing, suppressing, retaliating against or in any way responding to "terrorism." Such injury or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss, even if the act of "terrorism" that causes or results in the loss or damage itself is itself a cause of loss that is otherwise insured against under this policy.

If, by reason of this exclusion, we allege that any loss or damage under this policy is not covered, the burden of proving that such loss or damage is covered shall be upon you.

The following definition is added:

"Terrorism" means any act, whether actual or threatened, and whether committed by one or more persons acting alone or in connection with any group or organization, that:

1. Is not otherwise excluded under the War and Military Action exclusion; and
  2. Is intended or appears to be intended:
    - a. To intimidate a government, a civilian population or any segment of the government or civilian population; or
    - b. To influence, coerce or protest against the actions, behavior or policies of any government or sovereign power (de jure or de facto) or any segment of the government or sovereign; or
    - c. To further any political, ideological, economic, religious or social aim, objective or cause; or
    - d. To disrupt any segment of the global economy or the economy of any country or political state;
- and
1. Is acknowledged by the United States government or the government of the country or political state where the act occurs to be an act of "terrorism" or, if not so acknowledged, can reasonably be construed by us to be an act of "terrorism."

It is the intent of this endorsement to exclude from this insurance all claims, demands or "suits" arising from the insurable coverage excluded under this endorsement. There shall, therefore, be no duty or obligation on our part under this insurance to defend, respond to, investigate or indemnify anyone, including but not limited to you, your agents, servants or employees, or any third parties for any such claim, demand or suit.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DESIGNATED WORK EXCLUSION — EXTERIOR INSULATION AND FINISH SYSTEMS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCT/COMPLETED OPERATIONS LIABILITY COVERAGE PART

This insurance does not apply to "bodily injury" or "property damage" included in the "products-completed operations hazard" and arising out of "your work" described as:

1. The design, manufacture, construction, fabrication, preparation, installation, application, maintenance or repair, including remodeling, service, correction, or replacement, of an "exterior insulation and finish system" (commonly referred to as synthetic stucco) or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system.
2. Any work or operation with respect to any exterior component, fixture or feature of any

structure if any "exterior insulation and finish system" is used on any part of that structure.

For the purposes of this endorsement, an "exterior insulation and finish system" means an exterior cladding or finish system used on any part of any structure, and consisting of:

- (1) A rigid or semi-rigid insulation board made of expanded polystyrene or other materials, and
- (2) The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate; and
- (3) A reinforced based coat; and
- (4) A finish coat providing surface texture and color.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

CVX-GL-5000(07/2000)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### LEAD EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

In consideration of the premium charged, it is agreed that the following exclusions are added to SECTION I, paragraph 2. Exclusions of the Policy:

- (s) ***“Bodily injury”*** or ***“property damage”*** arising out of manufacturing, mining, use, sale, application, installation, distribution, storage, disposal or removal of, or any exposure to lead, lead based products, lead containing materials or lead containing waste, or to any obligation of the Insured to share damages with or repay another for damages arising out of such ***“bodily injury”*** or ***“property damage.”***

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

CVX-GL-5018(07/2000)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**AMENDMENT – AGGREGATE LIMITS OF INSURANCE  
(PER PROJECT)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

The General Aggregate Limit under LIMITS OF INSURANCE (SECTION III) applies separately to each of your projects away from premises owned by or rented to you.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION – DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

**Description and Location of Operation(s):**

**Any and all Consolidated Insurance Program (Wrap-Up) locations**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The following exclusion is added to paragraph 2., Exclusions of COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section I – Coverages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at the location described in the Schedule of this endorsement, as a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

- (1) Provides coverage identical to that provided by this Coverage Part;
- (2) Has limits adequate to cover all claims; or
- (3) Remains in effect.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## CONTINUOUS OR PROGRESSIVE INJURY AND DAMAGE EXCLUSION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to any damages because of or related to bodily injury or property damage:

1. which first existed, or alleged to have first existed, prior to the inception date of this policy, or
2. which are, or are alleged to be, in the process of taking place prior to the inception date of this policy, even if the actual or alleged bodily injury or property damage continues during this policy period.
3. which were caused, or are alleged to have been caused, by the same condition or construction defect which resulted in bodily injury or property damage which first existed prior to the inception date of this policy.

We shall have no duty to defend any insured against any loss, claim, suit or other proceeding alleging damages arising out of or related to bodily injury or property damage to which this endorsement applies.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BASIS OF PREMIUM ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed that **Section IV – Commercial General Liability Conditions** is amended to include the following definitions of basis of premium used for computing premiums for this coverage:

**Gross Sales or Receipts** is defined as the gross amount charged by the named insured, concessionaires of the named insured, or by others trading under the insured's name for:

- a) All goods or products, sold or distributed;
- b) Operations performed during the policy period; and
- c) Rentals;
- d) Dues or fees.

Only the following items shall be deducted from Gross Sales or Receipts:

- 1. Sales or excise taxes which are collected and remitted directly to a governmental division;
- 2. Credits for repossessed merchandise and products returned.

**Payroll or Remuneration** is defined as the sum of salaries, wages, tips, piece of work, commission, bonuses, board and meals for work performed and excluding excess in accordance with the state payroll limitation rules.

Overtime is defined as hours worked at increased rates of pay in excess of hours normally worked in a given day or week. If there is a guaranteed wage plan which assures employees a given wage for working a specific number of hours per week, then the overtime means only the hours worked in excess of that specific amount. If there are records available showing the wages paid for overtime separately, which exceed the amount that would have been paid for the same work during normal hours, then all such excess wages are excluded. If these records show only the total of wages paid, including overtime on a time and one-half basis, then one-third of those wages should be excluded. If double time is paid for overtime and the total pay for such overtime is recorded separately, one-half of the total pay for double time shall be excluded.

Excluded from payroll is remuneration paid to clerical office employees, including those whose duties are strictly limited to keeping the insured's books or records, conducting correspondence, or engaged in clerical work in these areas. Anyone who does not work in the area separated physically by walled floors, or partitions from all other work areas of the insured is not considered. An exception to this is if the payroll or clerical office employees are specifically included in a classification wording or footnote of the ISO general liability classification.

**Total Cost or Cost** is defined as the total cost of all work, let or sublet in connection with each specific project including:

- a) The cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work; and
- b) All fees, bonuses or commissions made, paid or due.

**Units** is defined as the number of persons or items described.

**Rental Receipts** is defined as the gross amount charged by the named insured, concessionaires of the named insured, or by others trading under the insured's name for rental of equipment.

**Admissions** is defined as the total number of persons, other than employees of the named insured, admitted to an event or events conducted on the premises, whether on paid admission, tickets, complimentary tickets, or passes.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ASBESTOS, SILICA DUST, TOXIC SUBSTANCES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following exclusion is added to Coverages A and B (Section I):

This insurance does not apply to:

1. "Bodily injury" or "personal injury" caused by asbestosis, silicosis, mesothelioma, emphysema, pneumoconiosis, pulmonary fibrosis, endothelioma or any lung disease or any ailment caused by, or aggravated by exposure, inhalation, consumption or absorption of asbestos fibers or dust or silica dust;
2. Any "property damage" due to or arising out of the actual or alleged presence of asbestos or silica dust in any form, including the costs of remedial investigations or feasibility studies, or to the costs of testing, monitoring, cleaning or removal of any property or substance; or
3. "Bodily injury," "property damage," "advertising injury," "personal injury" or any other action based upon the insured(s) supervision, removal, instructions, recommendations, warranties (expressed or implied), warnings or advice given, or withheld, regarding asbestos fibers or dust or silica dust.

It is the intent of this endorsement to exclude from this insurance all claims, demands or "suits" arising from the insurable coverage excluded under this endorsement. There shall, therefore, be no duty or obligation on our part under this insurance to defend, respond to, investigate or indemnify anyone, including but not limited to you, your agents, servants or employees, or any third parties for any such claim, demand or suit.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – INDEPENDENT CONTRACTORS EMPLOYEES OR LEASED WORKERS**

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This policy does not apply to "bodily injury" to:

To bodily injury to:

1. Any "employee," "temporary worker" or "leased worker" of any independent contractor arising out of operations performed for the Insured by the independent contractor, or acts or omissions of the Insured in connection with the general supervision of such operations; or
2. The spouse, child, parent, brother or sister of any "employee," "temporary worker" or "leased worker" as a consequence of 1. above.

This endorsement forms a part of the Policy to which attached, effective on the Inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## DEDUCTIBLE LIABILITY INSURANCE

(Including Costs and Expenses)

This endorsement modifies Insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

<u>Coverage</u>	<u>Amount and Basis of Deductible</u>		
Bodily Injury Liability	\$		per claim
Property Damage Liability	\$		per claim
Bodily Injury Liability & Property Damage Liability Combined	\$	5,000.00	per claim
Personal Injury Liability	\$	5,000.00	per claim
Advertising Injury Liability	\$	5,000.00	per claim

APPLICATION OF ENDORSEMENT (Enter below any limitations on the application of this endorsement, if no limitation is entered, the deductibles apply to damages for all "bodily injury," "personal injury," "advertising injury," or "property damage," however caused):

1. Our obligation under the Bodily Injury Liability, Personal Injury Liability, Advertising Injury Liability, and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages, and the limits of insurance applicable to such coverages will be reduced by the amount of such deductible. "Aggregate" limits for such coverages shall not be reduced by the application of such deductible amount.
    - a. to all damages because of "bodily injury" sustained by one person, or
    - b. to all damages because of "property damage" sustained by one person or organization,

as the result of any one occurrence."
  2. The deductible amounts stated in the Schedule apply as follows:
    - (2) Under Bodily Injury Liability and Property Damage Liability Coverage combined to all damages because of "bodily injury" and "property damage" sustained by one person or organization as the result of any one "occurrence."
    - A. PER CLAIM BASIS - if the deductible is on a "per claim" basis, the deductible amount applies:
- (1) Under the Bodily Injury Liability or Property Damage Liability Coverage, respectively: (over)

B. PER OCCURRENCE BASIS - If the deductible is on a "per occurrence" basis, the deductible amount applies:

(1) Under the Bodily Injury Liability or Property Damage Liability Coverage, respectively:

- a. to all damages because of "bodily injury" as the result of any one "occurrence," or
- b. to all damages because of "property damage" as the result of any one "occurrence,"

regardless of the number of persons or organizations who sustain damages because of that "occurrence."

(2) Under Bodily Injury Liability and Property Damage Liability Coverage combined to all damages because of "bodily injury" and "property damage" as the result of any one "occurrence" regardless of the number of persons or organizations who sustain damages because of that "occurrence."

C. PER INJURY BASIS - If the deductible is on a "per injury" basis, the deductible amount applies:

(1) Under the Personal Injury Liability Coverage to all damages because of "personal injury" sustained by any one person or organization as a result of any one injury.

(2) Under the Advertising Injury Liability Coverage to all damages because of "advertising injury" sustained by any one person or organization as a result of any one injury.

3. The deductible amount stated shall also apply towards investigation, adjustment and legal expenses incurred in the handling and investigation of each claim, whether or not payment is made to any claimant, compromise settlement is reached, or the claim is denied.

4. The terms of this insurance, including those with respect to:

- (a) Our right and duty to defend any "suits" seeking those damages; and
- (b) Your duties in the event of an "occurrence," claim, or suit

apply irrespective of the application of the deductible amount.

5. We may pay any part or all of the deductible amount towards investigation, adjustment and legal expense, or to effect settlement of any claim or suit and, upon notification of such payment, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named insured

Countersigned by: \_\_\_\_\_

(Authorized Representative)

CVX-GL-0301(04/91)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AMENDMENT OF PREMIUM ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

Paragraph 5. of Section IV - Conditions is replaced by the following:

5. Premium Audit.

- a. We will compute all premiums for this Policy in accordance with our rules and rates.
- b. Premium shown in this Policy is the advance premium for the policy term. If final audit develops a premium less than the advance premium, a minimum premium of \$23,800. will be retained by us. If final audit develops a premium greater than the advance premium, additional premium shall be due and payable to us on notice to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such time as we may request.
- d. In the event you cancel this Policy, a minimum premium of \$5,950. or the applicable pro-rata/short rate earned premium, whichever is greater, will be retained by us.

Your failure to pay premium when due shall be considered a request by the first Named Insured or their appointed authority for us to cancel. In the event of such cancellation for non-payment of premium the minimum premium shall be due and payable.

We have the right, but are not obligated, to rescind our cancellation notice if the premium is received prior to the effective date of cancellation.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by \_\_\_\_\_  
(Authorized Representative)

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

## ENDORSEMENT

This endorsement, effective on \_\_\_\_\_ at 12:01 A.M. standard time, forms a part of  
(DATE)

Policy No. \_\_\_\_\_ of the \_\_\_\_\_  
(NAME OF INSURANCE COMPANY)

Issued to

By \_\_\_\_\_  
Authorized Representative

### UNDERGROUND EXCLUSION (CERTIFIED MARKING SERVICE REQUIREMENT)

Coverage is excluded for any loss resulting from damage to underground cables, utilities, conduits, pipes, tanks or other similar types of property if a professional utility locating service was not used prior to the loss to identify the location of the damaged property. Loss includes any business interruption or similar subsequent related loss, including loss of material contained within the underground property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

**Name of Person or Organization:**

Any person or organization, trustee, estate or government entity to whom or to which the Named Insured is obligated, by virtue of written contract to provide insurance, such as is afforded by this policy.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV – COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CONTRACTUAL LIABILITY – RAILROADS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Scheduled Railroad:</b>	<b>Designated Job Site:</b>

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to operations performed for, or affecting, a Scheduled Railroad at a Designated Job Site, the definition of "insured contract" in the Definitions section is replaced by the following:

**9. "Insured Contract" means:**

- a.** A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b.** A sidetrack agreement;
- c.** Any easement or license agreement;
- d.** An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e.** An elevator maintenance agreement;
- f.** That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

- (1)** That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a)** Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b)** Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2)** Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph **(1)** above and supervisory, inspection, architectural or engineering activities.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>	<b>Location(s) Of Covered Operations</b>
Any person or organization, trustee, estate or government entity to whom or to which the Named Insured is obligated, by virtue of written contract to provide Insurance, Such As Is Afforded By This Policy.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.